

Colloquy

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1 family's here, mother, father, brothers and sisters, brother-
2 in-laws, and that one of them wants to make a statement on
3 behalf of all with your permission.

4 THE COURT: All right, certainly. It -- actually,
5 she ought to go on the witness stand, yeah.

6 MR. SANTAGUIDA: Okay.

7 THE COURT: While she's doing that, for the record the
8 report is dated July 23rd, revised August the 11th, and it uses
9 the sentencing guideline manual effective November 1, 1996
10 because of ex post facto problems.

11 JAIME CLAIR, WITNESS, SWORN

12 THE CLERK: State your full name for the record
13 please.

14 MS. CLAIR: Jaime Clair.

15 THE COURT: Will you spell your last name please?

16 MS. CLAIR: C-L-A-I-R.

17 THE COURT: Thank you.

18 THE CLERK: You may proceed.

19 THE COURT: Mr. Santaguida?

20 MR. SANTAGUIDA: Sorry. Did you want to make a
21 statement on behalf of your sister on behalf of the family?

22 MS. CLAIR: Okay.

23 MR. SANTAGUIDA: Judge, do you mind if she reads it?

24 THE COURT: Certainly. Uh-huh. You're a sister?

25 MS. CLAIR: Yes, I am.

Clair - Statement

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1 THE COURT: Okay.

2 MS. CLAIR: My sister, Carol Calvert, first began
3 working when she was 14 years old at a pretzel stand in the
4 Oxford Valley Mall. Our mother would drive her to work after
5 school every day, and then pick her up at the end of her shift.
6 It wasn't long before the manager Delores entrusted Carol with
7 the added tasks of opening the store, ordering supplies, and
8 cashing out at the end of the night.

9 Carol continuously was employed throughout high
10 school, where she graduated in the top five in her class of
11 approximately a thousand students. Carol worked all through
12 her college years, while still maintaining high scholastic
13 grades. She was always the manager or supervisor for every job
14 that she has ever had since age 14.

15 After graduating from college in only three-and-a-
16 half years, she got a job with Touche Ross, which was one of
17 the big eight accounting firms. She was promoted twice in two
18 years, which was unheard of at the first -- at the time. She
19 left that position because her largest client offered her a
20 tremendous opportunity and a significant raise in salary.
21 Carol was always a hard worker, and achieved what she aspired
22 to do.

23 During any career move, her motivation was to go
24 higher. Her work ethics were flawless, and she worked long and
25 hard hours. Any promotion that she earned was always through

Clair - Statement

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1 her hard work. In her last employment, any management
2 promotion or raise always was approved by the compensation
3 committee of the Board of Directors. Since she has stopped
4 working, she has given much of her time to helping me with my
5 child, and also our brother and sister-in-law with his two sets
6 of twins.

7 Also Carol cared for her boyfriend's step-father for
8 a year-and-a-half, until his death in September 2002. Carol
9 changed soiled sheets and went food shopping for him. She gave
10 him a quality of life that he would not have had otherwise.
11 This man was not a relative.

12 It's unfortunate that the person who interviewed
13 Carol for 60 minutes could not report on her many virtues, and
14 had to mischaracterize Carol in such a personal and biased way.
15 My point is that she's very giving, and a good person who helps
16 her entire family, both financially and emotionally. She's
17 always been self-sufficient, and does not rely on anyone or any
18 -- does not rely on anyone for money or anything.

19 Please be fair and recognize that she has a good
20 moral character, and has hurt no one but herself by the filing
21 of the false tax return. She has paid the entire tax amount
22 herself, without any contribution by her ex-husband. I know
23 that she regrets her actions, and that she will never engage in
24 this type of wrongful conduct ever again. Thank you.

25 MR. SANTAGUIDA: I have nothing further, Judge.

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1 THE COURT: Okay. Mr. Hall, do you have any
2 questions?

3 MR. HALL: No, Your Honor.

4 THE COURT: All right. Thank you very much.

5 MR. SANTAGUIDA: Judge, now that -- do you want me to
6 say something before Ms. Calvert?

7 THE COURT: Well I have a couple of questions, and I
8 also want to point out whether Mr. Hall has any evidence. You
9 have no other evidence, is that correct?

10 MR. SANTAGUIDA: Me?

11 THE COURT: Yeah.

12 MR. SANTAGUIDA: No other evidence to introduce except
13 -- no.

14 THE COURT: Okay, fine. I will note for the record
15 there are eight or nine family members who are here in support
16 of Mrs. Calvert. Now, Mr. Hall, do you have any evidence?

17 MR. HALL: No, Your Honor.

18 THE COURT: Okay. Now the questions I have, Mr.
19 Santaguida, first of all the tax liability is 79,749?

20 MR. SANTAGUIDA: Yes, Your Honor.

21 THE COURT: Has that been paid?

22 MR. SANTAGUIDA: Yes.

23 THE COURT: Okay. Now what's the status of the
24 penalties and interest?

25 MR. SANTAGUIDA: Judge, since she came into my office

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1 we've been trying to establish an amount. We didn't find out
2 the true amount of the tax, plus who it was to be paid to,
3 until yesterday. So, you know, they keep on saying they're
4 going to get back to us, going to get back to us, but so far
5 they haven't, Judge.

6 THE COURT: Okay. Mr. Hall, do you have any
7 information on that?

8 MR. HALL: My understanding, Your Honor, is that they
9 -- the -- the IRS is going to assess the penalties and interest
10 separately, that the --

11 THE COURT: Well we know that since she's already paid
12 the taxes, so it would have to be separate.

13 MR. HALL: Right. And they -- and they -- and that
14 they have not told me that figure yet, and that that's in the
15 -- in the works.

16 THE COURT: Okay. So then it seems to me that as a
17 condition of her probation or supervised release, she should
18 pay the penalty and interest when it has been assessed within
19 60 days.

20 MR. HALL: All right.

21 THE COURT: Okay. She wants to talk to you about
22 that.

23 (Defendant confers with counsel)

24 MR. SANTAGUIDA: She just wanted to know if that was
25 jointly with her ex-husband.

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1 THE COURT: Pardon?

2 MR. SANTAGUIDA: She just wanted to know if that
3 penalty and interest would be assessed jointly with her ex-
4 husband.

5 THE COURT: I have no idea. But if they -- I thought
6 -- that was the next question I have. Her sister said that she
7 paid the whole thing.

8 MR. SANTAGUIDA: She did.

9 THE COURT: But I thought I read in the presentence
10 report somewhere that the liability -- tax liability had been
11 bifurcated, some for the husband and some for the wife. Is
12 that not correct?

13 MR. SANTAGUIDA: No, I don't think so.

14 THE COURT: That's not correct?

15 MS. CALVERT: No.

16 MR. SANTAGUIDA: No, no.

17 MS. CALVERT: I paid the full amount, sir.

18 THE COURT: Okay. And there's no other tax due on
19 that return?

20 MR. SANTAGUIDA: No.

21 THE COURT: Okay. And the --

22 MR. SANTAGUIDA: Judge, --

23 THE COURT: -- full amount was largely because of his
24 -- his inflated or exaggerated or falsified expenses?

25 MR. SANTAGUIDA: Right. There was --

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1 THE COURT: Yeah.

2 MR. SANTAGUIDA: -- that's what happened, Judge. I
3 mean again, nobody's here to justify it --

4 THE COURT: Yeah, okay.

5 MR. SANTAGUIDA: -- it was certainly what I would say
6 something that was situational. Ms. Calvert received a
7 settlement that was not taxable, but part of her settlement
8 agreement was a \$30,000 a month consulting fee which was
9 taxable. And when it came time to do the taxes, my personal
10 opinion is that her husband, in order to justify his existence,
11 said let me do the taxes, I can save you some money.

12 THE COURT: Well now you objected to personal comments
13 about her in the presentence report. I don't know --

14 MR. SANTAGUIDA: Well --

15 THE COURT: -- he's not even here to defend himself.

16 MR. SANTAGUIDA: -- Your Honor, --

17 THE COURT: She can.

18 MR. SANTAGUIDA: Well --

19 THE COURT: Which she did through her sister's
20 comments.

21 MR. SANTAGUIDA: Anyway, he -- he -- he took the --
22 and he filled out the tax return. She was certainly in -- you
23 know, criminally responsible for not checking it out and put --
24 you know, adding her name to it. And, therefore, that's where
25 her responsibility lies. But here's -- she's the one who --

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1 he's the one who filled out the form. And because, I guess, he
2 went into -- and she came into the Government to cooperate in
3 reference to what they originally were investigating us for.

4 The original investigation had to do with her
5 relationship with AHER. She went in, told them what she knew.
6 It didn't amount to enough to I guess amount to a 5(k)(1). The
7 husband, who didn't work for AHER, he went in and said what he
8 did and what she -- that she acknowledged it. He's getting a
9 5(k)(1). How that works out is beyond me, but --

10 THE COURT: Because he was willing to testify against
11 her. That's in the report.

12 MR. SANTAGUIDA: No, but she would have -- she's the
13 one who told them about him, so -- okay.

14 THE COURT: Okay.

15 MR. SANTAGUIDA: But anyway, --

16 THE COURT: Let's get back to the questions I need
17 answered.

18 MR. SANTAGUIDA: Certainly, Judge.

19 THE COURT: She is in agreement then to pay the
20 penalties and interest when they are assessed --

21 MR. SANTAGUIDA: Yes.

22 THE COURT: -- within 60 days thereafter --

23 MR. SANTAGUIDA: Yes.

24 THE COURT: -- as a condition of her supervision?

25 MR. SANTAGUIDA: Yes.

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1 THE COURT: All right. Now the next thing is, as I
2 understand from the facts -- now I want to make sure
3 everybody's in agreement on this -- that her husband conceived
4 of the plan to overstate the expenses, and he prepared the
5 return, and he signed her name to it, without her signing it,
6 and that the expenses that were either falsified or overstated
7 related to his business, not to hers?

8 MR. SANTAGUIDA: I think what it did --

9 THE COURT: Are -- are those facts correct?

10 MR. SANTAGUIDA: I think that she had given her
11 husband monies during the course of the year -- I think it was
12 \$80,000 or something like that -- and he put that down for
13 salaries when, in fact, it went to him. So that's the way it
14 worked.

15 THE COURT: Well I don't understand that at all. If
16 she gave him money, --

17 MR. SANTAGUIDA: She -- she gave him money --

18 THE COURT: -- he -- he's not going to pay tax on it.

19 MR. SANTAGUIDA: No. And it -- I mean it was -- he
20 -- she just gave it to him out of largesse and he -- he --
21 that's the figure he used for the salaries.

22 THE COURT: Whose salary?

23 MR. SANTAGUIDA: The -- the -- the phoney salaries,
24 the --

25 THE COURT: Oh, the expense salary?

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1 MR. SANTAGUIDA: Yes. Yes.

2 THE COURT: He took money that she gave to him and
3 said that was expense that he paid out to somebody else?

4 MR. SANTAGUIDA: Right

5 THE COURT: Okay. All right. Now, Mr. Hall, do you
6 agree with that factual recitation?

7 MR. HALL: And I would only add one other fact, Your
8 Honor, and that is that the expenses were designed to offset
9 this --

10 THE COURT: Her income.

11 MR. HALL: -- her income.

12 THE COURT: Okay. All right. Mr. Weinberger, do you
13 agree with the way I've stated it?

14 MR. WEINBERGER: Yes, sir.

15 THE COURT: Okay, thank you. All right. Then the
16 other -- only other thing I need to know is he has been
17 prosecuted in the Western District. What's the status of that
18 case?

19 MR. SANTAGUIDA: I think he's not going to get
20 sentenced for a while.

21 MS. CALVERT: December.

22 MR. SANTAGUIDA: December.

23 THE COURT: December? All right. What did he plead
24 guilty to?

25 MS. CALVERT: A level 14, but he's awaiting a 5 --

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1 THE COURT: 5(k)(1).

2 MS. CALVERT: -- (k)(1). And he has been led to
3 believe that he's getting complete probation, --

4 THE COURT: Yeah, okay.

5 MS. CALVERT: -- no time for anything.

6 THE COURT: What -- yeah. What did -- you said
7 11/14?

8 MR. SANTAGUIDA: No, level 14.

9 THE COURT: Oh, level 14. Okay.

10 MR. SANTAGUIDA: Fourteen, prior record --

11 THE COURT: What was the offense that he was --

12 MR. SANTAGUIDA: -- offense --

13 THE COURT: -- he pled guilty to?

14 MR. SANTAGUIDA: Same thing, Judge.

15 THE COURT: Same thing?

16 MR. SANTAGUIDA: Yes.

17 THE COURT: Well he wouldn't be aiding and abetting.
18 He did it.

19 MR. SANTAGUIDA: I didn't say aiding and abetting, I
20 said level 14.

21 MS. CALVERT: I just know it's a level --

22 THE COURT: The offense.

23 MR. SANTAGUIDA: The offense is income tax evasion, or
24 -- or that was -- well that was hers.

25 THE COURT: Do you know, Mr. Hall?

Santaguida - Argument

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1 MR. HALL: It's subscribing to a false tax return,
2 Your Honor.

3 THE COURT: All right, thank you. All right, thank
4 you. Now, Mr. Santaguida, I'll hear any argument you would
5 like to make.

6 MR. SANTAGUIDA: Again, Judge, I -- I've been living
7 with this case now for a while, and I've seen, you know, the
8 attitude of Ms. Calvert in our -- the remorse that she's shown
9 at least to me, the emotional stress that she went under having
10 this hanging over her head. The stress that it's had on her
11 family. It's affected her physically, emotionally, and there
12 was absolutely no reason for it. There's no question about
13 that.

14 I mean she would have been prepared to pay the taxes.
15 She's prepared to pay them now. She did pay them now. I don't
16 see how -- you know, what benefit to society any incarceration
17 would do. I think that a probationary sent -- under the court
18 (sic) has an option to be able to substitute some house arrest,
19 which I would suggest maybe six months would be sufficient,
20 which was the minimum term of imprisonment allowed, six months
21 to 12 months -- six months house arrest. That she be allowed
22 to work. And I would believe that that would be a proper
23 sentence in this situation.

24 THE COURT: Okay. Probation's also recommended
25 community service.

Santaguida - Argument

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1 MR. SANTAGUIDA: Fine, Judge.

2 THE COURT: Uh-huh. What do you think about the fine?

3 MR. SANTAGUIDA: Judge, I think the fine was a little
4 high since she's taken it on the chin to pay the -- not only
5 the tax, but whatever the fine and penalty is. So that fine --
6 she's already going to get a fine because, you know -- because
7 of the taxes. So I don't see why there should be an additional
8 fine imposed.

9 THE COURT: Of course, the taxes are due on her
10 money.

11 MR. SANTAGUIDA: Yes.

12 THE COURT: They got a benefit because he inflated the
13 expenses.

14 MR. SANTAGUIDA: Yes.

15 THE COURT: But if he had not done that, she would
16 still be paying these taxes.

17 MR. SANTAGUIDA: She would have paid them, sure. Uh-
18 huh.

19 THE COURT: Okay.

20 MR. SANTAGUIDA: But not -- not the interest and
21 penalty.

22 THE COURT: Uh-huh. Right. Well we don't -- and we
23 don't know yet whether IRS is going to assess interest and
24 penalty, or how much.

25 MR. SANTAGUIDA: I'm sure they will, Judge.

Hall - Argument

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1 THE COURT: Well they've -- they've been known to
2 compromise those matters.

3 MR. SANTAGUIDA: Okay.

4 THE COURT: All right, thank you.

5 MR. SANTAGUIDA: Thank you.

6 THE COURT: Now, Mr. Hall?

7 MR. HALL: Your Honor, may I approach sidebar with
8 counsel?

9 THE COURT: Sure.

10 MR. HALL: And -- and with Ms Calvert, if she'd like?

11 (Sidebar begins)

12 MR. HALL: Your Honor, this is a matter that's not
13 relevant to the people in the gallery, and that's the reason --

14 THE COURT: Uh-huh.

15 MR. HALL: -- I came to the side. And I would only
16 disagree with the characterization of Ms. Calvert's sister in
17 that the facts establish that her rise at AHER and her
18 settlement there were not a result of strictly hard work, but
19 also personal relationships that she engaged in --

20 THE COURT: Well that was very clearly set forth in
21 the presentence report.

22 MR. HALL: And I just wanted to state that for the
23 record, but not in public.

24 THE COURT: Uh-huh.

25 MS. CALVERT: Can I say something?

Hall - Argument

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1 THE COURT: You may.

2 MS. CALVERT: His comment with respect that I didn't
3 come to work and that I didn't know what I was doing is largely
4 because I was responsible for a brand new business venture that
5 had never been done in the country. And I was given
6 responsibility for an area that was legal in nature, which was
7 contrary -- but, you know, that's the truth. I had no idea
8 what I was doing, and I'm sure that that person that's at --
9 agreed to -- that she was a school teacher. So I mean I was
10 over my head, and I kept trying to turn down
11 responsibilities --

12 THE COURT: Uh-huh.

13 MS. CALVERT: -- and they kept giving them to me. Now
14 towards the end, when people started leaving things right on my
15 desk, it was sexual apparatus on my desk and things like that,
16 I did stop going in. But I --

17 THE COURT: Uh-huh.

18 MS. CALVERT: -- felt like I had every right not to.
19 I was promoted by not just the men I had relationships with.
20 And every promotion went before the Board of Directors, which
21 was conforming to the community leaders and everything else.
22 Every raise.

23 THE COURT: Uh-huh.

24 MS. CALVERT: So I mean maybe --

25 THE COURT: Okay.

Hall - Argument

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1 MS. CALVERT: -- you know, I --

2 THE COURT: All right. Well I understand that. It's
3 -- it's perfectly appropriate for the probation officer to put
4 this information in the report because it's your whole
5 background, --

6 MS. CALVERT: Right.

7 THE COURT: -- and that's part of it.

8 MS. CALVERT: Right.

9 THE COURT: But on the other hand, it does have very
10 little weight to do with what I -- I decide in the case.

11 MR. SANTAGUIDA: Thank you.

12 MS. CALVERT: Thank you.

13 MR. HALL: And the only other comment I would say is
14 to find -- would be I understand the merits of what was just
15 said, like we just said. I have no doubt that IRS will impose
16 additional penalties.

17 THE COURT: Oh, I agree.

18 MR. HALL: So that the Government would recommend,
19 Your Honor, a fine in the middle of the upper range.

20 THE COURT: It might be what I just wrote down.

21 MS. CALVERT: And -- and am I that -- I'm not clear.
22 Am I going to pay the full amount, or is it half of what it's
23 due?

24 THE COURT: Well you just agreed to pay the full
25 amount.

Hall - Argument

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1 MS. CALVERT: Okay.

2 THE COURT: And I think that --

3 MS. CALVERT: No, I just --

4 THE COURT: -- if you think it's -- you -- and that --

5 MS. CALVERT: I --

6 THE COURT: -- doesn't prevent you from collecting
7 something from your ex-husband.

8 MS. CALVERT: Yeah, he's milking me dry. I just had
9 to give him \$28,000 to get the house out of foreclose 'cause he
10 won't take my name off the --

11 THE COURT: Uh-huh.

12 MS. CALVERT: He's killing me.

13 THE COURT: Well are you in the house, or is it --

14 MS. CALVERT: He won't take my name off the mortgage.

15 THE COURT: Okay.

16 MS. CALVERT: And it went into foreclosure.

17 THE COURT: Well let it be foreclosed.

18 MS. CALVERT: I -- he's already ruined my credit
19 rating.

20 THE COURT: Uh-huh.

21 MS. CALVERT: I mean I -- see he's got me between a
22 rock and a hard place.

23 THE COURT: Well -- well you're not the first. I know
24 a lot --

25 MS. CALVERT: A --

Hall - Argument

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1 THE COURT: -- of other women and men who have been in
2 that same situation.

3 MS. CALVERT: And is -- is there any way that it could
4 be written that it's -- since I paid the full brunt of the
5 taxes -- because, by the way, he has all the records, hasn't
6 shared them with me, he -- he sat down with someone --

7 THE COURT: Uh-huh. The --

8 MS. CALVERT: -- and they came up with the numbers. I
9 don't -- I still don't even know that -- where that 79 came
10 from.

11 THE COURT: Yeah. Well you'll have to work that out
12 with Mr. Santaguida and your husband. I don't have anything to
13 do with that.

14 MS. CALVERT: But you can't say that I'm paying half
15 of the penalty and interest?

16 THE COURT: Oh, I certainly can say that, but that
17 doesn't mean IRS will agree with that, but --

18 MS. CALVERT: Yeah. I --

19 THE COURT: It's just a matter of whether --

20 MS. CALVERT: Okay.

21 MR. SANTAGUIDA: But they're going to probably assess
22 it against both.

23 THE COURT: They will assess it against both, and
24 they'll try to collect it against both. And as always happens,
25 the person with the money has to pay.

Calvert - Statement

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1 MR. SANTAGUIDA: Right, that's what happens.

2 THE COURT: Yeah. Okay.

3 MS. CALVERT: Thank you.

4 THE COURT: Uh-huh.

5 (Sidebar ends)

6 THE COURT: All right. Now anything further, Mr.
7 Santaguida?

8 MR. SANTAGUIDA: No, Your Honor.

9 THE COURT: Okay. Now, Mr. Hall?

10 MR. HALL: Nothing, Your Honor.

11 THE COURT: Now, Mrs. Calvert, is there anything you
12 would like to say before I impose sentence? You have an
13 absolute right to tell me anything you think I should consider,
14 but you're not required to make a statement at this time.

15 MS. CALVERT: Yes, Your Honor, I'd like to make a
16 statement, but I'd like to read it if that's okay?

17 THE COURT: You may, sure.

18 MS. CALVERT: Shall I grab this thing --

19 THE COURT: As you wish.

20 MS. CALVERT: Your Honor, I have pled guilty and fully
21 accept my responsibility for aiding and abetting in the
22 presentation of a false tax return. I most genuinely
23 appreciate the Government's acknowledged that my role in filing
24 the false tax return was minor, and that I received a
25 corresponding minor role adjustment. I want to express my

Calvert - Statement

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1 sincere apologizes to the Court, the U.S. Government, its
2 citizens, my family and friends for my irresponsible act and
3 the resulting anguish and stress that I know I have caused.

4 As those who are closest to me know, I too have
5 suffered physically, emotionally, and financially over the past
6 six years. I stand before you at my all time low, accepting
7 sole responsibility for my actions leading up to today. In
8 addition to the real pain I have caused others, the cumulative
9 pain I have created within me has resulted in a feeling of deep
10 paralysis emotionally, and severe physical stress.

11 My daily existence is always flavored with a sense of
12 fear, shame, and anxiety. The feeling of social alienation is
13 like a dark cloud under which I have been unable to escape.
14 However, I sit here now with more hope than I've had in the
15 last six years because my fate will be known today, and my life
16 will no longer hang in the balance. Today is sentencing. That
17 presents an opportunity to rebuild my life, my relationships,
18 and my health. I look forward to the possibility of returning
19 to work, and once again contributing to the community in a
20 purposeful way.

21 I humbly request your leniency in my sentencing,
22 particularly the duration of home confinement. I will, of
23 course, abide by any and all of the Court's decisions, and I
24 remain hopeful that the Court will consider the passage of time
25 since the crime was committed, and the suffering I have already

The Court - Sentence

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1 incurred in establishing my final sentence. I assure you that
2 I will never engage in this type of wrongful conduct again.
3 Thank you.

4 THE COURT: All right, thank you. All right. Then
5 the Court accepts the plea agreement entered into between the
6 defendant and the United States in this case. In this case, as
7 in every case, I must consider the nature and circumstances of
8 the -- of the offense and of the defendant, the need to deter
9 criminal conduct by the defendant and others, and the
10 rehabilitative needs of the defendant.

11 The guideline range does not exceed 24 months, and I
12 find no reason to part from the sentence called for by the
13 application of the guidelines inasmuch as the facts found are
14 the kind contemplated by the Sentencing Commission.

15 Now with reference to the sentence to be imposed, the
16 guideline range is six to 12 months. The Probation Department
17 I think correctly analyzed that the Government was perhaps
18 generous in a legal sense in granting the minor role adjustment
19 in terms of applying the facts to the language of the
20 guideline.

21 But on the other hand, it also seems to me that
22 factually it does show that she was involved in a minor role in
23 this offense since it was her husband's idea to do this. It
24 was his analysis of the -- of the expenses to be placed on the
25 return. He was the one who prepared the return, and he, in

The Court - Sentence

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1 fact, forged her name to it. So it seems to me that on a
2 common sense level, she did play a minor role in the offense,
3 and therefore I accept that reduction.

4 Now with reference to the sentence, it also seems
5 clear to me that probation is an appropriate sentence in this
6 case. There would be no purpose served by incarcerating the
7 defendant, particularly when the offense would require six
8 months of incarceration, and the gentleman who was at the head
9 of AHER, who caused untold injuries and damages and heartache
10 and pain and suffering to untold numbers of people by his
11 actions, only received I believe it was 11-and-a-half to 23
12 months, or maybe 18 months. Whatever it was.

13 So it seems to me probation is appropriate in this
14 case, and the minimum amount of home confinement would be --
15 under the guidelines is six months. So I will impose a fine --
16 a sentence in that regard. I think community confine --
17 community service is appropriate, as recommended by the
18 Probation Department, and I will place the fine at \$5,000 in
19 view of the fact that she is well able to afford it.

20 And since these are taxes that she would have had to
21 pay in any event, had the false return not have been filed, it
22 seems to me that there should be some fine over the amount --

23 (Tape malfunctions / tape change)

24 THE COURT: -- judgment of the Court that the
25 defendant, Carol Calvert, is hereby placed on probation for a

The Court - Sentence

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1 period of two years. While she is on probation she shall not
2 commit another federal, state or local crime, shall not
3 illegally possess a controlled substance, shall not possess a
4 firearm or other dangerous weapon, and shall comply with the
5 standard conditions that have been adopted by this Court,
6 including the following.

7 That she shall be placed on home detention for a
8 period of six months to commence as soon as practicable.
9 During this time she shall remain at her place of residence,
10 except for employment and other activities approved in advance
11 by the probation officer. She shall maintain a telephone at
12 her place of residence without any call forwarding, caller ID,
13 call waiting, modems, answering machines, cordless telephones,
14 or other special services for the above period. She shall wear
15 an electronic device, and shall observe the rules specified by
16 the Probation Department.

17 Defendant is to pay the costs of the electronic
18 monitoring portion of the sentence, not to exceed the daily
19 contractual rate. Payment for the electronic monitoring shall
20 be made in accordance with the probation officer's direction.
21 Changes to the established rate can be made by the probation
22 officer, subject to supervised reapproval. The defendant shall
23 cooperate fully with both IRS and all state tax authority.

24 She shall also pay the penalties and interest
25 assessed by the Internal Revenue Service. When those -- when

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1 the penalty and interest has been assessed, she shall pay that
2 within 60 days of that assessment. And that is without
3 prejudice to her right to collect at least one-half of that sum
4 from her ex-husband.

5 She shall also perform community service in -- for
6 300 hours over the course of the two years, as directed by the
7 Probation Department. It is further ordered she shall pay the
8 United States a special assessment which shall be due
9 immediately, and she shall make pay -- and she shall pay a fine
10 in the amount of \$5,000.

11 With reference to the -- her financial ability, I
12 find that she has a net worth of \$930,000. She could realize
13 \$900,000 from the sale of assets. That she can realistically
14 earn a total of at least \$3500 per month while on supervision,
15 and that \$500 of this total can be paid into court based upon
16 her financial needs. She is, therefore, able to pay a full
17 fine. And the fine in the amount of \$5,000 shall be paid
18 during her supervision, and shall be paid within 120 days.

19 Defendant shall notify the U.S. Attorney for this
20 district within 30 days of any change of mailing or residence
21 address that occurs when a portion of the fine remains unpaid.
22 Any questions on the sentence, Mr. Santaguida?

23 MR. SANTAGUIDA: Judge, I note -- Ms. Calvert had
24 asked me before, twice a week, I think, she does some
25 babysitting for her sister. She picks up the children at

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1 school. Will she be able to do that?

2 THE COURT: Yes.

3 MR. SANTAGUIDA: Thank you.

4 THE COURT: Uh-huh. All right. Mr. Hall, do you have
5 any questions on the service -- the sentence?

6 MR. HALL: No, Your Honor.

7 THE COURT: Okay. All right. Then that will be the
8 sentence that is imposed. Now, Ms. Calvert, I want to advise
9 you that you have the right to appeal your conviction and your
10 sentence. With few exceptions, a notice of appeal must be
11 filed within ten days of judgment being entered in your case,
12 which will most likely occur tomorrow.

13 If you wish to file an appeal, you may request the
14 Clerk of the Court to prepare and file a notice of appeal on
15 your behalf. If you're unable to pay for the cost of the
16 appeal, you may apply to the Court for leave to appeal without
17 paying that cost.

18 Now as you rightly pointed out, this is the
19 conclusion of a long period of uncertainty and unhappiness, and
20 I can understand that. There are many people at your
21 institution who were living a very good life when they should
22 not have been living quite as good a life and -- but I think
23 now this is the end of your period of uncertainty. You have to
24 comply with these conditions, which will not be overly
25 difficult for you. But you can now look forward to starting

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1 your life anew and forgetting about all the rest of this. Good
2 luck to you.

3 MS. CALVERT: Thank you. Thank you.

4 MR. SANTAGUIDA: Thank you, Judge. May I be excused?

5 THE COURT: Okay. Court is adjourned.

6 *****

C E R T I F I C A T I O N

I, Karen O'Malley, court approved transcriber, certify
that the foregoing is a correct transcript from the official
electronic sound recording of the proceedings in the above-
entitled matter.


KAREN O'MALLEY
DIANA DOMAN TRANSCRIBING

Date: 10/27/03

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	03-CR-332
)	
)	Philadelphia, Pa.
)	June 10, 2003
vs.)	2:45 p.m.
)	
)	
CAROL CALVERT,)	
)	
Defendant.)	

TRANSCRIPT OF PLEA HEARING
BEFORE THE HONORABLE WILLIAM H. YOHN, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	CHRIS HALL, ESQ. U.S. Attorney's Office 615 Chestnut Street Philadelphia, Pa. 19106
For the Defendant:	JOSEPH SANTAGUIDA, ESQ. 121 S. Broad Street Philadelphia, Pa. 19107
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Proceedings recorded by electronic sound recording; transcript
produced by transcription service.

I N D E X

The Court

Page

Carol Calvert

3, 19, 31

Statement

Mr. Hall

18, 20

(NOTE: Mr. Santaguida off microphone. Defendant barely audible at times)

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1 THE COURT: All right. This is the matter of the
2 United States versus Carol Calvert, file 3-332. The Court
3 notes the presence of the defendant, her counsel, and the
4 Assistant U.S. Attorney assigned to this action. And as I
5 understand it, we're here today for the entry of a guilty plea
6 to count one of the information. Is that correct, --

7 MR. SANTAGUIDA: Yes.

8 THE COURT: -- Mr. Santaguida?

9 MR. SANTAGUIDA: Yes, Your Honor. Joseph Santaguida
10 for the defendant, Carol Calvert.

11 THE COURT: Now would you swear the defendant please?
12 CAROL CALVERT, DEFENDANT, SWORN

13 THE CLERK: State your full name for the record
14 please.

15 MS. CALVERT: Carol Lynn Calvert.

16 THE COURT: Now, Ms. Calvert, I need first to ask you
17 some questions to make sure that you are able to understand
18 what is occurring here today.

19 DIRECT EXAMINATION

20 BY THE COURT:

21 Q Do you read, write, and understand the English language?

22 A Yes, sir.

23 Q And how far did you go in school?

24 A I graduated from college.

25 Q And how old are you?

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1 A Forty-two.

2 Q And are you subject to any mental illness or disease that
3 could affect your ability to understand what is occurring here
4 today?

5 A No, sir.

6 Q Have you ever been subject to any mental illness or
7 disease, or hospitalized for any mental illness or disease?

8 A No, sir.

9 Q Now have you taken any drugs, medicines, pills, or drunk
10 any alcoholic beverages in the last 24 hours?

11 A Just prescription medication.

12 Q Okay. And what is that prescription?

13 A I take Lipitor, Viox, Zoloft, Narspan (phonetic), and an
14 antibiotic.

15 Q Okay. Now a couple of those are drugs that do affect your
16 -- your mental capacity. Do you -- do you --

17 A Zoloft.

18 Q -- yes. Do you feel that you are able to understand what
19 is occurring here today?

20 A Yes.

21 Q Do you feel clear headed and if -- I need you to respond
22 verbally.

23 A Yes, sir.

24 Q All right. And you've been taking them for some time I
25 take it?

Calvert - The Court

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- 1 A Yes.
- 2 Q On the Zoloft, how -- what's the quantity that you take?
- 3 A A hundred milligrams once a day.
- 4 Q Okay. That's a pretty minimal dose then, I believe.
- 5 A (No audible response)
- 6 Q Do you know, or you don't know?
- 7 A I -- I'm --
- 8 Q Yeah.
- 9 A -- I think it's an average dose, so --
- 10 Q Uh-huh.
- 11 A -- I think you can take 25 up to about 200.
- 12 Q Uh-huh. Okay. Now there was another one you mentioned
- 13 that sounded to me like it was a --
- 14 A No, Viox is for --
- 15 Q -- antidepressant.
- 16 A -- tendinitis in my shoulder.
- 17 Q Uh-huh.
- 18 A I have an antibiotic. And I take Narspan because I -- and
- 19 Lipitor because --
- 20 Q For your cholesterol?
- 21 A -- I have high cholesterol and high triglyceride.
- 22 Q Okay. All right. Now do you understand that you are now
- 23 under oath, and if you answer any of my questions falsely your
- 24 answers could later be used against you in a separate criminal
- 25 prosecution for perjury or making a false statement?

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1 A Yes.

2 Q Has anybody respond -- instructed you to respond other
3 than truthfully to any of my questions?

4 A No.

5 Q Now in connection with this, have you received a copy of
6 the information listing the charge against you?

7 A Yes.

8 Q And have you had enough time to discuss your case with
9 your attorney?

10 A Yes.

11 Q Do you understand the charge against you?

12 A Yes.

13 Q Now you have not had a court appearance previously, and
14 you have the right to have that information read to you word
15 for word at this time if you care to do so, or you can waive
16 your right and we'll proceed without doing that.

17 MR. SANTAGUIDA: Judge, we'll waive our right --

18 THE COURT: Well let -- let me hear -- hear from her.

19 MS. CALVERT: I will waive my rights.

20 BY THE COURT:

21 Q Okay. Now this is a (sic) information, which is basically
22 a piece of paper signed by the U.S. Attorney. Now under our
23 Constitution, you have the right to be charged only by an
24 indictment, as opposed to an information. Indictment is by a
25 grand jury. But you can waive that right and consent to be

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1 charged by the information signed by the U.S. Attorney. Do you
2 understand that?

3 A Yes.

4 Q Do you understand the charges in this case are being
5 brought by an information rather than an indictment?

6 A Yes, I understand.

7 Q Now that -- you did not waive your right to indictment.
8 You cannot be charged with a felony such as this unless a grand
9 jury finds, by returning an indictment, that there's probable
10 cause to believe the crime has been committed, and that you
11 committed it. And if you do not waive indictment, the
12 Government may present this case to a grand jury to request
13 that it indict you.

14 The grand jury's composed of at least 16, not more than 23
15 persons, and at least 12 of those grand jurors must find
16 there's probable cause to believe that you committed the crime
17 with which you are charged before you may be indicted. If the
18 case went to the grand jury, it might or might not indict you.
19 But if you waive indictment by the grand jury, then the case
20 proceeds against you on the U.S. Attorney's information, just
21 the same as if you had been indicted. Do you understand all
22 that?

23 A Yes.

24 Q Has anybody made any threats or promises to you to get you
25 to waive your right to indictment by a grand jury?

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1 A No.

2 Q Is it your desire to waive your right to indictment by a
3 grand jury?

4 A Yes.

5 THE COURT: Okay. And do we have the indictment form
6 -- waiver form?

7 MR. SANTAGUIDA: Yes, Your Honor.

8 BY THE COURT:

9 Q All right. I have the waiver form in my hand now. Is
10 that your signature on the document?

11 A Yes, Judge.

12 THE COURT: All right. Then the Court finds the
13 defendant has knowingly, intelligently, and voluntarily waived
14 her right to indictment by a grand jury, and will proceed just
15 the same as if she had been indicted. Now I need to go into
16 the general issues in connection with your guilty plea. And
17 under our Constitution and laws, you have a lot of rights that
18 you're giving up by entering a guilty plea, and I want to make
19 sure you understand them in general terms.

20 BY THE COURT:

21 Q Under the Constitution, you have the right to plead not
22 guilty to this charge. You have the right to be tried by a
23 jury, during which time you have the right to be assisted by an
24 attorney. You have the right to confront and cross-examine the
25 witnesses against you, and you have the right not to be

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1 compelled to testify yourself if you chose not to testify. Do
2 you understand you're giving up all those rights by pleading
3 guilty?

4 A Yes.

5 Q During the trial you would not have to prove that you were
6 innocent. Rather you would be presumed to be innocent, and the
7 Government would have to prove you guilty by proof beyond a
8 reasonable doubt. Do you understand you're giving up those
9 rights?

10 A Yes.

11 Q Even before the trial began, you would have the right to
12 challenge the manner in which the Government obtained evidence
13 against you, including any admissions or confessions made by
14 you, or any physical evidence obtained, or any tape recordings,
15 and you could seek to suppress that evidence, meaning that it
16 could not be used against you during the trial because it had
17 been illegally obtained by the Government. Do you understand
18 you're giving up your right to challenge the evidence in that
19 manner?

20 A Yes.

21 Q Also if you went to trial, a panel of 45 to 50 residents
22 of the Eastern District of Pennsylvania would be selected at
23 random. They'd be brought into this courtroom. You and your
24 attorney could participate in selecting a jury of 12 from that
25 group, and all 12 would have to unanimously agree that you were

Calvert - The Court

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1 guilty before you could be found guilty of this charge. Do you
2 understand you're giving up those rights?

3 A Yes.

4 Q You also would have the right to request a non-jury trial,
5 meaning that I would hear the evidence, and I would decide
6 whether you're guilty or not guilty, rather than a jury of 12.
7 Do you understand you're -- that you're giving up that right?

8 A (No audible response)

9 Q If you went to trial, the Government would have to bring
10 in witnesses to testify in your presence. Your attorney could
11 cross-examine those witnesses, object to any evidence offered
12 by the Government, and also offer evidence on your own behalf.
13 Do you understand you're giving up those rights?

14 A Yes.

15 Q You also would have the right to subpoena witnesses in
16 order to compel their attendance on your behalf, and to present
17 those witnesses, as well as non-subpoenaed witnesses, and
18 including character witnesses whose testimony could raise a
19 reasonable doubt as to your guilt. Do you understand you're
20 giving up those rights?

21 A Yes.

22 Q You would also have the right to testify if you chose to
23 do so. But if you chose not to testify, I would instruct the
24 jury they could not hold that against you in any way because it
25 was your Constitutional right. Do you understand you're giving

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1 up those rights?

2 A Yes.

3 Q Also during the trial your attorney could argue to the
4 jury or to the Court on your behalf against the Government's
5 case. Do you understand you're giving up those rights?

6 A Yes.

7 Q By pleading guilty you're waiving -- that means giving up
8 forever your right to a trial of any kind, as well as all the
9 other rights just discussed. There will be no trial. The
10 Court will enter a judgment of guilty, and sentence you on the
11 basis of your guilty plea after considering a presentence
12 report and conducting a sentencing hearing. Do you understand
13 that?

14 A Yes.

15 Q By pleading guilty, you are giving up your right to appeal
16 from any conviction after trial because there will be no trial,
17 and the only appeal from a guilty plea would be if I imposed an
18 illegal sentence, or if there are any errors in this proceeding
19 or the sentencing proceeding. Do you understand that?

20 A Yes, Judge.

21 Q And you have the right to be represented by an attorney at
22 every stage of the proceeding against you. And if you cannot
23 afford the fees of an attorney to try your case, then one will
24 be appointed to represent you free of charge. Do you
25 understand that?

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1 A Yes.

2 Q Are you satisfied with your attorney's representation in
3 this matter?

4 A Yes.

5 Q The decision to enter a guilty plea is yours and yours
6 alone. Your attorney can give you the benefit of his training,
7 experience and advice, but only you can decide whether you want
8 to plead guilty. Do you understand that?

9 A Yes, Judge.

10 Q Is it your desire to enter a plea of guilty to this
11 charge?

12 A Yes, Judge.

13 Q Now in connection with this, the maximum penalty for you
14 is that you could go to jail up to three years, followed by up
15 to one year on supervised release. You could be fined up to
16 \$250,000. And I must impose a special assessment of \$100. Do
17 you understand that?

18 A Yes, Judge.

19 Q While you're on probation or supervised release, if you
20 get in any trouble with the law, or you violate any of the
21 other conditions of your probation or supervised release, I can
22 send you to jail for an additional period of time because of
23 those violations. Do you understand that?

24 A Yes, Judge.

25 Q While you're on probation or supervised release, if you

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1 get in any trouble with the law, or you violate any of the
2 other conditions of your probation or supervised release, I can
3 send you to jail for an additional period of time because of
4 those violations. Do you understand that?

5 A (No audible response)

6 Q Now I don't know what your sentence will be as a result of
7 this guilty plea, and I won't make that determination until
8 after I have a presentence report from the probation
9 department. But you could, on the basis of your guilty plea,
10 receive a sentence right up to the maximum permitted by law
11 that I just explained to you. And even if I did that, you
12 would not be entitled to withdraw your guilty plea because I
13 imposed such a sentence. Do you understand that?

14 A Yes.

15 Q Your sentence could be more severe than you expect, or
16 anyone else recommends, but you're still bound by your guilty
17 plea, and have no right to withdraw it because of that. Do you
18 understand that?

19 A Yes.

20 Q This is a felony offense, and you may be deprived of
21 certain valuable civil rights, such as the right to hold -- the
22 right to vote, the right to hold public office, the right to
23 serve on a jury, and the right to possess any kind of a
24 firearm. Do you understand that?

25 A Yes.

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1 Q Now in addition to the legal maximums that I have
2 mentioned to you, the U.S. Sentencing Commission has issued
3 guidelines that I must follow in determining what the sentence
4 is in your case within the legal range. Do you understand
5 that?

6 A Yes.

7 Q Have you discussed with your attorney how the guidelines
8 might apply to your case?

9 A Yes.

10 Q Now I won't determine what those guidelines are until the
11 presentence report has been completed, and you and the
12 Government have had an opportunity to challenge the facts
13 reported by the probation officer. Do you understand that?

14 A Yes.

15 Q After I determine what the guidelines are, I have the
16 authority in some circumstances to impose a sentence that is
17 more severe or less severe than that called for by the
18 guidelines. Do you understand that?

19 A Yes.

20 Q Under the guidelines parole's been abolished. And when
21 they talk in terms of a number of months in prison, you must
22 serve that period of time in prison. You don't get released on
23 parole after serving some portion of it. Do you understand
24 that?

25 A Yes.

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1 Q There are some stipulations in your guilty plea agreement.
2 Those are binding on you, and they're binding on the
3 Government, but they're not binding on me. And I'll make a
4 determination at the sentencing hearing as to whether to accept
5 those stipulations. Do you understand that?

6 A Just one -- are those the --
7 (Defendant consults with counsel)

8 A -- yes.

9 Q Okay. Now the amount of the tax loss that is involved
10 here has an effect upon the guidelines for your sentencing.
11 And the higher the loss is the higher -- the higher the
12 guideline sentence is. Do you understand that?

13 A Yes.

14 Q Now in addition to that, you have in your guilty plea
15 agreement agreed that you will not file any appeal, or you will
16 not do what we call collaterally attack your judgment of
17 sentence. And basically what I want you to know in that regard
18 is that you have the right ordinarily to appeal any sentence
19 that I impose on you to a higher court, which could modify or
20 set aside your sentence, or require me to resentence you. The
21 Government also has the same right of appeal.

22 In addition to that, you have the right to bring later
23 proceedings, such as what we call a collateral attack by filing
24 a habeas corpus motion to vacate, set aside, or correct your
25 sentence. Now you normally have those rights, do you

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1 understand that, to appeal, and then also to collaterally
2 attack your judgment of conviction and sentence. Do you
3 understand that?

4 A Yes.

5 Q Now this plea agreement greatly limits your right to
6 appeal, and prevents you from using these later proceedings
7 that I mentioned to you to collaterally attack your judgment.
8 And you can only appeal on the limited grounds set forth in the
9 guilty plea agreement. Do you understand that?

10 MR. SANTAGUIDA: Judge, she wants to ask me a
11 question.

12 THE COURT: Yeah, okay.

13 (Defendant consults with counsel)

14 MR. SANTAGUIDA: Ordinarily, Judge, I put it on the
15 record that I usually don't agree with that -- with the
16 Government, but in this case they made a concession that the
17 guidelines -- guideline concession about the guidelines, and I
18 don't think this really will affect her later on.

19 THE COURT: Uh-huh.

20 MR. SANTAGUIDA: I don't think she'd be making a
21 collateral attack so --

22 THE COURT: Okay. Well that may be your judgment; I
23 want to make sure it's her judgment.

24 MR. SANTAGUIDA: Okay.

25 BY THE COURT:

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1 Q Yeah. Because she -- you're the one who's bound by it,
2 Ms. Calvert, not Mr. Santaguida. Do you understand that?

3 A Can I get something taken out?

4 Q Well that you'd have to discuss. I don't -- I don't
5 participate in settlement -- in the guilty plea agreements.

6 MR. SANTAGUIDA: We agree with that.

7 THE COURT: Okay

8 BY THE COURT:

9 Q Now basically -- and in paragraph 11 of your agreement it
10 says in exchange for the undertakings made by the Government in
11 entering this plea agreement, the defendant voluntarily and
12 expressly waives all right to appeal or collaterally attack the
13 defendant's conviction, sentence, or other matters relating to
14 this prosecution, whether such a right of -- to appeal or
15 collateral attack arises under -- and then various -- or any
16 provision of law.

17 Now it does except from that that if the Government
18 appeals from the sentence, then the defendant may file a direct
19 appeal. If the Government does not appeal, then you may file a
20 direct appeal, but raising only the claims that the defendant
21 exceed -- the sentence exceeds the statutory maximum, which
22 would be the three-year period, or that I erroneously departed
23 upward from the other applicable sentencing guideline range.

24 These are the only bases on which you could file an
25 appeal, and you cannot collaterally attack your sentence. And

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1 that's your agreement. And if you want to proceed, then that's
2 part of the agreement. If you don't want to agree to that,
3 then there's no guilty plea.

4 A I agree.

5 Q All right. And that's your decision, not your attorney's,
6 and not the Government's. It's your -- it has to be your
7 decision. Do you understand that?

8 A Yes, Judge.

9 THE COURT: All right. Now there has been a plea
10 agreement in this case. And, Mr. Hall, would you summarize the
11 terms of the plea agreement?

12 MR. HALL: Yes, Your Honor. The defendant agrees to
13 plead guilty to the information as charged. The Government
14 reserves the right to make whatever sentencing recommendation
15 it deems appropriate. The defendant agrees to cooperate with
16 the IRS in a number of ways.

17 First, she agrees to pay \$79,749 of unpaid taxes.
18 She agrees to provide the IRS with any information they request
19 for a civil audit. She agrees that she will not object to an
20 entry of an order permitting the Civil Division of the IRS to
21 review the records collected as part of this criminal
22 investigation.

23 The parties entered into the following stipulations,
24 Your Honor. First of all, the defendant is entitled to a two-
25 level downward adjustment for acceptance of responsibility, and

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1 another two-level downward adjustment for a minor role. And
2 then the waiver of appellate rights, Your Honor, that Your
3 Honor's already reviewed with her. The defendant understands
4 that these agreements as to the guidelines do not bind the
5 Court or the probation office in its independent review of the
6 guidelines that apply. And that's the summary, Your Honor.

7 THE COURT: Uh-huh. All right.

8 BY THE COURT:

9 Q Now, Ms. Calvert, does that accurately summarize the terms
10 of the plea agreement as you understand them?

11 A Yes.

12 Q Uh-huh. Now that -- the actual agreement is not that
13 summary, but it is the written document, the written guilty
14 plea agreement. Do you understand that?

15 A Yes.

16 THE COURT: Who has the original of that?

17 MR. HALL: I do, Your Honor.

18 THE COURT: Okay.

19 MR. HALL: May I approach?

20 THE COURT: You may.

21 BY THE COURT:

22 Q Now I'm holding that document in my hand now. Did you
23 read and understand this document?

24 A Yes.

25 Q Did you have enough time to discuss it with your attorney,

Hall - Statement

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1 and to make your decision to plead guilty based on the terms of
2 this agreement?

3 A Yes.

4 Q Is that your signature at the end?

5 A Yes, the -- oh, yes.

6 Q Okay. And has anybody forced you or threatened you to get
7 you to plead guilty based on this agreement?

8 A No.

9 Q Has anybody made any promises to you, other than the terms
10 of the plea agreement, to get you to plead guilty?

11 A No.

12 Q Now does the written document contain the terms of your
13 agreement with the Government as you understand them?

14 A Yes.

15 Q And do you agree with those terms?

16 A I have to, yes.

17 Q No, you don't have to. You --

18 A Well, yes.

19 Q You do? Okay. I mean you don't have to if you --

20 A I know, but it -- I -- yes.

21 THE COURT: All right. All right. Now I'm going to
22 have Mr. Hall explain to you what we call the essential
23 elements of the charge. This is a legal description of the
24 charge, and it's important to you because if you went to trial,
25 I would instruct the jury that they had to unanimously agree

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1 that you were guilty of every element of the charge before they
2 could find you guilty of this charge. Mr. Hall?

3 MR. HALL: Your Honor, the -- the elements follow.
4 First, that the defendant willfully aided or assisted in, or
5 procured or counseled; two, the preparation of a tax return;
6 and three, that it was fraudulent or false as to any material
7 or important matter.

8 BY THE COURT:

9 Q All right. Do you understand the essential elements of
10 the charge against you?

11 A Yes. That includes --

12 MR. HALL: I can repeat that if that would be
13 helpful.

14 MS. CALVERT: Please.

15 MR. HALL: The first element is that you willfully
16 aided or assisted, and the second element is the preparation of
17 a tax return. And the third element is that that tax return
18 was false or incorrect as to an important or material matter.

19 THE COURT: All right. Do you understand the
20 essential elements?

21 MS. CALVERT: Yes.

22 The court: Okay. Now I'm going to have Mr. Hall set
23 forth the facts the Government would be prepared to prove at
24 trial. I want to make sure those facts fit the charge against
25 you, and I want to make sure you admit doing what they say you

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1 did. Mr. Hall?

2 MR. HALL: Your Honor, the -- the first and most
3 important exhibit would be the actual tax return for Ms.
4 Calvert and her former husband filed for fiscal -- for calendar
5 year 1996. And that tax return showed that Ms. Calvert had
6 received, in addition to other compensation from -- from the
7 former Allegheny Health Education and Research Foundation, she
8 received a \$300,000 consulting agreement which was part of the
9 severance package.

10 In addition to declaring that \$300,000 on the
11 schedule "C", that was offset by business expenses related to
12 an unrelated business endeavor by her husband of \$243,279.
13 That resulted in a combined net income on the schedule "C" of
14 only \$56,721. The other evidence in the case, if it proceeded
15 to trial, would be approximately four witnesses. And I'll just
16 say their names, Walz, W-A-L-Z, Dr. Kaye, K-A-Y-E, Gerald
17 Escovitz, and a Judy Harrington.

18 Those employees knew Ms. Calvert from her work at
19 AHER. And during the period of time that she was covered by
20 this consulting agreement, they would testify that she did
21 essentially no work for AHER. And the inference the Government
22 would draw from that is that she had no expenses during that
23 period of time associated with that. And finally, Your Honor,
24 the Government would call her former husband, --

25 MR. SANTAGUIDA: That's not the element of the crime,

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1 Judge. The element of the crime is that her husband put
2 down --

3 MS. CALVERT: He made up --

4 MR. SANTAGUIDA: -- deductions --

5 MS. CALVERT: -- expenses --

6 MR. SANTAGUIDA: -- that were not expenses. Not that
7 she didn't do any work. We never agreed to that.

8 MS. CALVERT: I was in the retainer --

9 MR. SANTAGUIDA: The retainer, the \$300,000 --

10 THE COURT: Just a minute. One at a time.

11 MR. SANTAGUIDA: -- was a retainer, and she didn't
12 have to do any work for that. They would be on call if they
13 needed her for anything. That was a negotiation that they
14 agreed with. Whether it was fair or unfair, or whether she --

15 THE COURT: Whether it was a consulting contract or a
16 severance pay doesn't seem to me that it makes any difference.

17 MR. SANTAGUIDA: It doesn't.

18 THE COURT: Yeah.

19 MR. SANTAGUIDA: No. So I don't know why --

20 MS. CALVERT: My --

21 MR. SANTAGUIDA: -- those witnesses don't --

22 THE COURT: So -- just a minute please.

23 MS. CALVERT: Okay.

24 THE COURT: Okay.

25 MR. SANTAGUIDA: No, but --

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1 THE COURT: So in --

2 MR. SANTAGUIDA: -- it's going to make her think that
3 -- that that's not the element to why she's pleading guilty.
4 She's pleading guilty because she --

5 THE COURT: The expenses were false.

6 MR. SANTAGUIDA: -- had a \$300,000 income, and her
7 husband said they had like say \$180,000 --

8 THE COURT: Well it wasn't just her husband.

9 MR. SANTAGUIDA: I'm sorry?

10 THE COURT: It wasn't just her husband, or otherwise
11 she wouldn't be here.

12 MR. SANTAGUIDA: No, no. And she agreed.

13 THE COURT: Yeah.

14 MR. SANTAGUIDA: She signed -- she signed it and she
15 said that we --

16 THE COURT: I don't think she did --

17 MR. SANTAGUIDA: -- we have those expenses --

18 THE COURT: -- sign the tax return.

19 MR. SANTAGUIDA: Well, but he signed for her. She
20 agreed --

21 THE COURT: Now, Mr. Hall, it doesn't seem to me that
22 the issue of whether she was -- whether this was a consulting
23 fee, or whether a severance pay, or whether she worked for it
24 or not makes any difference. Does it make a difference to you?

25 MR. HALL: Well, Your Honor, this -- the Government